

REMARKS

This communication is a full and timely response to the aforementioned non-final Office Action dated July 17, 2007. By this communication, claims 1-4, 10, 16, 17, and 19 are amended. Claims 1-20 remain pending. Reconsideration and allowance of this application are respectfully requested.

Rejections Under 35 U.S.C. §112

Claims 1, 10, and 17 were rejected under 35 U.S.C. §112, second paragraph, as indefinite. Applicant respectfully traverses this rejection. However, in an effort to expedite prosecution these claims have been amended for clarity. Withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. §102

Claims 1, 10, and 17 were rejected under 35 U.S.C. §102(b) as anticipated by *Iwasaki et al* (Japanese Patent No. 10307826). Applicant respectfully traverses this rejection.

Contrary to the arguments presented in the Office Action, *Iwasaki* fails to establish a *prima facie* case of anticipation with respect to Applicant's claims. Namely, Applicant respectfully submits *Iwasaki* is not analogous art and further does not disclose Applicant's claimed combination of features.

Applicant's claims broadly encompass an exemplary data management system which allows a user to designate a desired location in which a file is to be stored. In this system, a user sends an email requesting a tree structure from a server. The server receives the email, verifies the sender's identity, and creates a tree structure that the sender is authorized to access. The tree structure is sent in

an email to the client device. The tree structure is received at the client device. The client device attaches a file that is to be uploaded in a specified storage location of the tree structure sent by the server device.

In contrast, *Iwasaki* describes a document management device which enables a document to be registered, retrieved, and acquired by transmitting or receiving electronic mail between computers or portal terminals. While *Iwasaki* is generally related to communicating information through email, it is not particularly related to the communication of a file structure format over email. The PTO alleges that the mere sending of a request email is analogous to Applicant's request of a tree structure. Even if this interpretation of *Iwasaki* is accurate, which Applicant does not believe that it is, there is no teaching or suggestion of a device that sends a folder structure to a client in response to an inquiry from the client as recited in Applicant's claims. Accordingly, a *prima facie* case of anticipation has not been established.

To properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. See Verdegall Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). For at least this reason and those discussed in detail above, withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 3-9, 11-14, 16, and 18-20 were rejected under 35 U.S.C. §103(a) as unpatentable over *Iwasaki* in view of *Mutton et al* (U.S. Patent Publication No. 2002/0147840). Applicant respectfully traverses this rejection.

The PTO acknowledges that *Iwasaki* fails to disclose every element recited in the aforementioned claims and relies on *Mutton* and in some instances takes Official

Notice to remedy these deficiencies. Without acquiescing to the specific teachings of *Mutton*, Applicant respectfully submits that this reference does not remedy the deficiencies of *Iwasaki* as alleged, because it fails to teach a system that or device sends a folder structure to a client in response to an inquiry as recited in Applicant's claims. Moreover, Applicant hereby challenges the taking of Official Notice as the PTO has not shown that the features which are asserted as being well known are common knowledge in the art and capable of instant and unquestionable demonstration as being well known (United States Patent and Trademark Office memo from Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy (February 2002)). Without this evidence, Applicant submits that the PTO's conclusion is speculative at best.

Applicant hereby requests that documentary evidence be shown for all features that the PTO alleges are well known in the art.

Regarding the application of *Mutton*, Applicant submits that the PTO has failed to show why one of ordinary skill would have reason to combine these references and achieve the claimed results. Particularly, *Iwasaki* is directed to the registration, retrieval, and acquisition of a document and *Mutton* is directed to delivering application and multimedia content on the internet. Neither of these systems explicitly or implicitly describe features that are analogous to a data management system as claimed by Applicant. More importantly, the applied references fail to teach or suggest sending a folder structure to a client in response to an inquiry from the client as recited in Applicant's claims. Accordingly, a *prima facie* case of obviousness has not been established.

To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Moreover, obviousness "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." ACS Hosp. Sys. V. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). For these reasons, withdrawal of this rejection is respectfully requested.

Conclusion

Based on at least the foregoing amendments and remarks, Applicant submits that claims 1-20 are allowable, and this application is in condition for allowance. Accordingly, Applicant requests a favorable examination and consideration of the instant application. In the event the instant application can be placed in even better form, Applicant requests that the undersigned attorney be contacted at the number below.

Respectfully submitted,

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